

Essay Question No. 5

Answer this question in booklet #5

Alaska Packing Company (“APC”) operated a salmon packing plant located in the City of Windy Bay, Alaska (the “City”). The plant was owned by the City. APC leased the plant from the City under a ten-year lease. APC used the plant to process salmon that it purchased from fishermen who lived in the City and in the surrounding area. APC had a ten-year contract with one fisherman who lived in the City, Joe Clark, under which Clark agreed to sell all of the salmon he caught each year to APC. As to other fishermen with whom APC did business, APC typically would contact them in March of each year to arrange contracts for the sale of salmon to APC. APC would then buy salmon from such fishermen and pay the fishermen after APC sold its processed salmon fillets in the Fall.

In January of Year 7 of the lease, APC was having serious financial problems. The City heard rumors that APC had failed to pay fishermen who sold salmon to APC during Year 6 of the lease. While APC was current on its rent, the City determined that APC likely would not have enough money to pay the monthly rent during Year 7 of the lease. The City also was concerned whether APC would be able to pay fishermen who might sell salmon to APC during the Year 7 season. This was of concern to the City because many of the fishermen who historically sold salmon to APC were residents and taxpayers of the City. If its resident fishermen did not get paid for their work, the City believed that its tax revenues would decline significantly. Consequently, in late-January of Year 7, the City’s mayor contacted all fishermen who lived in the City to let them know that APC was having serious financial problems and that they might want to consider selling their salmon to another processor during the coming season.

By April of Year 7, APC had signed contracts with only a few of the fishermen with whom it historically had done business. While APC made efforts to secure contracts with other fisherman with whom it historically had not done business, it had limited success. In late-May of Year 7, Joe Clark advised APC that he would not be selling salmon to APC during the Year 7 season. As a result of its problems obtaining salmon to process, APC was unable to buy enough salmon during the Year 7 season to operate the plant at full capacity. By September of Year 7, APC decided that it had no option but to close its doors forever.

In October of Year 7, Jack Parsons, the president of APC, ran into Clark at the City grocery store. Parsons told Clark that APC was thinking about suing Clark for breaching his contract to sell salmon to APC. Clark told Parsons that he had heard that APC was having financial problems and had

decided that he could not risk not getting paid by APC. Clark explained further that he had heard that other fisherman had made the same decision.

APC decides to sue the City rather than Clark. Discuss the intentional business interference torts that APC may allege in its lawsuit against the City.